

Financial Services Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

Schedule 2

BARONESS BOWLES OF BERKHAMSTED

Page 66, line 12, at end insert –

- “() An explanation under subsection (1) must include specific, detailed and quantitative elaboration, with worked examples, showing where and how the rules have been influenced, including (where applicable) comparisons to previous rules or other references.
- () If either House of Parliament by resolution declares that a consultation or proposed Part 9C rules are void on the grounds that the accompanying explanation under subsection (1) is inadequate, the consultation is to be deemed not to have been carried out under section 138I and the proposed Part 9C rules may not be made.”

Schedule 3

BARONESS BOWLES OF BERKHAMSTED

Page 82, line 44, at end insert –

- “() The explanation in subsection (1) must include specific, detailed and quantitative elaboration, with worked examples, showing where and how the rules have been influenced including (where applicable) comparisons to previous rules or other references.
- () If either House of Parliament by resolution declares that a consultation or proposed CRR rules are void on the grounds that the accompanying explanation under subsection (1) is inadequate, the consultation is to be deemed not to have been carried out under section 138J and the proposed CRR rules may not be made.”

After Clause 40

LORD SHARKEY

Insert the following new Clause—

“New fixed rate deals for Mortgage Prisoners

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) After section 137FD insert—

“137FE FCA general rules: new fixed rate deals for mortgage prisoners

- (1) The FCA must make general rules requiring authorised persons involved in regulated mortgage lending and regulated mortgage administration to ensure that mortgage prisoners can access new fixed interest rate deals at an interest rate equal to or lower than an interest rate specified by the FCA.
- (2) In subsection (1)—
 - “mortgage prisoner” means a consumer who cannot switch to a different lender because of their characteristics and has a regulated mortgage contract with one of the following type of firms—
 - (a) inactive lenders, or firms authorised for mortgage lending that are no longer lending; and
 - (b) unregulated entities, or firms not authorised for mortgage lending and which contract with a regulated firm to undertake the regulated activity of mortgage administration.
 - “new fixed interest rate deals” means the ability for the consumer to fix the rate of interest payable on a regulated mortgage contract for periods of 2 years and 5 years.
- (3) The general rules made under subsection (1) should make new fixed interest rate deals available to mortgage prisoners which meet the following criteria—
 - (a) are up to date with payments or have aggregate arrears of no more than one monthly payment in the past 12 months,
 - (b) have a remaining term of 2 years or more,
 - (c) have an outstanding loan amount of at least £10,000, and
 - (d) have not received consent to let the property.
- (4) When specifying the interest rates required by subsection (1) the FCA should set a range of rates including rates for mortgage prisoners with Loan-To-Valuation ratios of less than—
 - (a) 60%,
 - (b) 75%,
 - (c) 90%,
 - (d) 100%.
- (5) In subsection (4) Loan-To-Valuation ratio means the current amount of the outstanding mortgage loan as a percentage of the valuation of the property which is subject to the mortgage.
- (6) When specifying the interest rates required by subsection (1) the FCA should take into account the average 2-year and 5-year fixed rates available to existing customers of active lenders through product transfers.

After Clause 40 - continued

- (7) The FCA must ensure any rules that it is required to make as a result of subsection (1) are made not later than 31 July 2021.””

Member’s explanatory statement

This new Clause would require the FCA to make rules allowing mortgage prisoners with inactive lenders and unregulated entities to access new fixed interest rate deals. These would be made available at or below rates specified by the FCA which would take into account the rates offered to customers of active lenders.

Insert the following new Clause—

“Conditions for the transfer of a regulated mortgage contract

- (1) The Financial Services and Markets Act 2000 is amended as follows.
(2) After section 137FD (FCA general rules: charges for claims management services) insert—

“137FF FCA general rules: conditions for the transfer of a regulated mortgage contract

- (1) A regulated mortgage contract shall not be transferred without the written consent of the borrower.
(2) When seeking consent from either an existing or a new borrower the lender must provide a statement to the borrower containing sufficient information in order for them to make an informed decision.
(3) The statement provided pursuant to subsection (2) must be approved in advance by the Financial Conduct Authority and shall include—
(a) a clear explanation of the implications in terms of the interest rates which will be offered to the borrower including details of the policies and procedures which will apply for the setting of mortgage interest rates and for the making of repayments if the transfer takes place;
(b) how the transfer might affect the borrower;
(c) the name and address of the intended transferee, and of any holding company applicable;
(d) the relationship, if any, between the lender and the transferee;
(e) a description of the intended transferee and of its business, including how long it has been in operation, and details of its involvement in the management of mortgages; and
(f) confirmation that in the absence of a specific consent the existing arrangements will continue to apply.
(4) Each borrower shall be approached individually and shall be given a reasonable time within which to give or decline to give their consent.
(5) In this section, “regulated mortgage contract” has the meaning given by article 61(3) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.
(6) This section does not apply to transfers of regulated mortgage contracts where the transferee is an active lender and a condition of the transfer is that the borrowers transferred are offered the same interest rates as the active lender’s existing customers.

After Clause 40 - continued

- (7) This section does not apply to transfers of regulated mortgage contracts made using powers given by Parts 1 to 3 of the Banking Act 2009.”

Member’s explanatory statement

This new Clause would, under certain circumstances, require the written consent of the borrower for the transfer of a regulated mortgage contract.

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12 February 2021
